

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (CGM)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Substantively
Consolidated SIPA Liquidation of Bernard L.
Madoff Investment Securities LLC and the Chapter 7
Estate of Bernard L. Madoff,

Plaintiff,

v.

FRANK J. AVELLINO, *et al.*,
Defendants.

Adv. Pro. No. 10-05421 (CGM)

**STIPULATION AND ORDER FOR DISMISSAL OF DEFENDANT THOMAS G.
AVELLINO FROM ADVERSARY PROCEEDING WITHOUT PREJUDICE**

WHEREAS, on December 10, 2010, Irving H. Picard, as trustee (the “Trustee”) for the liquidation of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa–*III*, and the substantively consolidated chapter 7 estate of

Bernard L. Madoff commenced this adversary proceeding (the “Adversary Proceeding”) against Defendant Thomas G. Avellino (“Defendant”), as well as other defendants, by filing his Complaint (ECF No. 1).

WHEREAS, on November 24, 2014, the Trustee filed his Amended Complaint against Defendant and other defendants (collectively, the “Avellino Defendants”) (ECF No. 86).

WHEREAS, on January 28, 2015, the Avellino Defendants, including Defendant, filed a motion to dismiss the Amended Complaint (the “Motion to Dismiss”) (ECF No. 88).

WHEREAS, on August 5, 2016, the Court issued an Order granting in part and denying in part the Avellino Defendants’ Motion to Dismiss (ECF No. 117).

WHEREAS, on November 2, 2016, Defendant filed an Answer to the Amended Complaint (ECF No. 141).

WHEREAS, Defendant and the Trustee have engaged in extensive settlement discussions since 2021.

WHEREAS, Defendant and the Trustee have reached a compromise and resolution of their disputes without any admission of liability, alleged wrongdoing or any issue of fact or law.

IT IS HEREBY agreed and stipulated between the Trustee and Defendant (together, the “Parties”), through their respective counsel, as follows:

1. Pursuant to the Settlement Procedures Order, entered by this Court on November 12, 2010 (Case No. 08-01789, Dkt. No. 3181), the Parties entered into a Settlement Agreement and Release, dated June 20, 2023 (the “Settlement Agreement”), the terms of which are confidential.

2. Pursuant to the terms of the Settlement Agreement, and in accordance with Federal Rule of Bankruptcy Procedure 7041 and Federal Rule of Civil Procedure 41(a)(1), the Parties

hereby stipulate to dismiss the Trustee's claims against Defendant in the above-captioned adversary proceeding, and to dismiss the adversary proceeding against Defendant without prejudice and without costs.

3. The provisions of this Stipulation shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns and upon all creditors and parties of interest.

4. This Stipulation may be signed by the Parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed DocuSign, facsimile, photostatic or electronic copy of this stipulation shall be deemed an original.

5. The Bankruptcy Court shall retain jurisdiction over this stipulation.

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6. Upon the dismissal of Defendant, the caption of the Adversary Proceeding is hereby amended to delete Defendant from the caption. The amended caption shall appear as indicated in Exhibit A to this Stipulation.

Date: July 18, 2023
New York, New York

/s/ Esterina Giuliani

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the Substantively Consolidated SIPA
Liquidation of Bernard L. Madoff
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7 Estate of Bernard L. Madoff*

/s/ Gary A. Woodfield

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Attorney for Defendants

SO ORDERED.

**Dated: July 19, 2023
Poughkeepsie, New York**



/s/ Cecelia G. Morris

**Hon. Cecelia G. Morris
U.S. Bankruptcy Judge**